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JAMES H. McKENNEY,
Clerk.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1905.

No. [redacted]43

WARREN B. WILSON, APPELLANT,

vs.

LESLIE M. SHAW, SECRETARY OF THE TREASURY, ET AL., APPELLEES.

MOTION TO ADVANCE.

JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C. 18788

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1905.

No. 294.

WARREN B. WILSON, APPELLANT,

vs.

LESLIE M. SHAW, SECRETARY OF THE TREASURY, ET AL., APPELLEES.

MOTION TO ADVANCE.

Comes now the appellant, Warren B. Wilson, and moves the court to advance the above-entitled cause upon the docket and set the same for hearing out of and ahead of its regular order, and in support of his said motion presents his affidavit filed herewith.

WARREN B. WILSON, *Appellant.*

I concur.

CHARLES W. RUSSELL,
Counsel for Appellees.

IN THE SUPREME COURT OF THE UNITED STATES.

WARREN B. WILSON, *Appellant*, *vs.* LESLIE M. SHAW, *Secretary of the Treasury, et al., Appellees.*	294.	19796.

NOTICE OF MOTION.

To Messrs. CHARLES W. RUSSELL and
MORGAN H. BEACH,
Solicitors for Appellees.

GENTLEMEN: You will please take notice that on Monday, the twenty-third day of October, 1905, at the opening of court, or as soon thereafter as counsel can be heard, I shall move the court to advance the above-entitled cause upon the docket and set the same for hearing by some short day to be fixed by the court; that in support of said motion I shall present to the court an affidavit, a copy of which is attached hereto and served herewith.

WARREN B. WILSON, *Appellant.*

IN THE SUPREME COURT OF THE UNITED STATES.

WARREN B. WILSON, *Appellant*, *vs.* LESLIE M. SHAW, *Secretary of the Treasury, et al., Appellees.*	294.	19796.

AFFIDAVIT ON MOTION TO ADVANCE.

Comes now Warren B. Wilson, who, being duly sworn, on his oath deposes and says—

That he is the appellant in the above-entitled cause.

That the main question involved in said appeal is the legality of the expenditure of public money from the United

States Treasury in and about the construction and operation of the proposed canal at Panama; the bill filed by appellant against the appellee The Secretary of the Treasury in the supreme court of the District of Columbia, charging that the only act of Congress purporting to authorize the construction and operation of the said canal is wholly unauthorized by the Constitution, in violation of its provisions, null, and void; that even if valid its terms and conditions have not been complied with; that the treaty with Panama in attempted execution of said statute is invalid both in Panama and the United States, and that any expenditure of public money for such purposes, or under the assumed authority of said statute, will be in violation of the provision of the Constitution that no money shall be drawn from the Treasury but in consequence of appropriations made by law; that the Secretary of the Treasury is about to pay out large sums in the purchase of the property of the canal company and of the rights of way across the Isthmus defined in the treaty and in construction expenses; that appellant is a citizen and taxable inhabitant, and praying an injunction to restrain the Secretary of the Treasury from paying out the public money for the purpose.

Appellant further says that he has examined the question involved with care and is entirely convinced that the said charges are well founded; that the terms and conditions of said statute have, in essential respects, not been complied with; that said act is wholly unconstitutional, and that it is wholly beyond the power of Congress to enact such legislation or to authorize expenditures for such purposes, and that upon the record and the facts appellant is lawfully and equitably entitled to the substantial relief prayed, viz., a perpetual injunction enjoining and restraining the appellee The Secretary of the Treasury from paying any money from the United States Treasury in and about the expenses of constructing or operating said proposed canal or under the assumed authority of said act approved June 28, 1902; that

since the bill was filed and after process served the appellee has paid out, under the assumed authority of said act, great sums, amounting to many million dollars, and is still daily paying from the Treasury of the United States large sums in and about the construction of said canal under the assumed authority of said act approved June 28, 1902, the exact amount this affiant is not advised, but affiant is informed and believes, and, so believing, charges the truth to be and the same is matter of common knowledge, that the expenditures on this account have for some months averaged several thousand dollars per day; that said expenditures still continue, and it is the publicly announced purpose of the appellee to continue to make them from the funds in the Treasury.

Appellant further charges that said contemplated canal is not a marketable property, and, if it should be determined that such expenditures are unlawful and that said canal cannot be built out of the Treasury, all the moneys spent in the meantime will be practically a total loss.

Wherefore appellant says that an emergency exists for a speedy disposition of this cause.

And deponent further saith not.

WARREN B. WILSON.

Subscribed and sworn to before me this 21st day of October, A. D. 1905.

[SEAL.] JAMES R. GLASS,
Notary Public.

IN THE SUPREME COURT OF THE UNITED STATES.

WARREN B. WILSON, *Appellant*, *vs.* LESLIE M. SHAW, *Secretary of the Treasury, et al., Appellees.*	294.	19796.

AFFIDAVIT OF SERVICE OF NOTICE.

Comes now Luke B. Brooks, who, being duly sworn, on oath says that he mailed a copy of the attached notice and affidavit, addressed to Charles W. Russell, care of the Department of Justice, Washington, D. C., postage prepaid, on the 18th day of October, 1905, and a like copy to Morgan H. Beach, care of the United States attorney's office, Washington, D. C.

Further deponent saith not.

LUKE B. BROOKS.

Subscribed and sworn to before me this 21st day of October, A. D. 1905.

[SEAL.] JAMES R. GLASS,
Notary Public.

[Endorsed:] File No. 19,796. Supreme Court U. S., October term, 1905. Term No. 294. Warren B. Wilson, appellant, *vs.* Leslie M. Shaw, Sec't'y of the Treasury. Motion to advance and affidavit. Filed October 23, 1905.